



General Assembly

**Substitute Bill No. 247**

February Session, 2012

\* \_\_\_\_SB00247JUD\_\_040212\_\_ \*

**AN ACT CONCERNING THE SEXUAL ASSAULT OF A PERSON  
WHOSE ABILITY TO CONSENT IS SUBSTANTIALLY IMPAIRED DUE  
TO MENTAL DISABILITY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-71 of the 2012 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2012*):

4 (a) A person is guilty of sexual assault in the second degree when  
5 such person engages in sexual intercourse with another person and: (1)  
6 Such other person is thirteen years of age or older but under sixteen  
7 years of age and the actor is more than three years older than such  
8 other person; or (2) [such other person is mentally defective to the  
9 extent that such other person is unable to consent to such sexual  
10 intercourse] the ability of such other person to consent or to  
11 communicate lack of consent to such sexual intercourse is substantially  
12 impaired because of mental disability and the actor knows or has  
13 reasonable cause to know that the ability of such other person to  
14 consent or to communicate lack of consent to such sexual intercourse is  
15 so impaired; or (3) such other person is physically helpless; or (4) such  
16 other person is less than eighteen years old and the actor is such  
17 person's guardian or otherwise responsible for the general supervision  
18 of such person's welfare; or (5) such other person is in custody of law  
19 or detained in a hospital or other institution and the actor has

20 supervisory or disciplinary authority over such other person; or (6) the  
21 actor is a psychotherapist and such other person is (A) a patient of the  
22 actor and the sexual intercourse occurs during the psychotherapy  
23 session, (B) a patient or former patient of the actor and such patient or  
24 former patient is emotionally dependent upon the actor, or (C) a  
25 patient or former patient of the actor and the sexual intercourse occurs  
26 by means of therapeutic deception; or (7) the actor accomplishes the  
27 sexual intercourse by means of false representation that the sexual  
28 intercourse is for a bona fide medical purpose by a health care  
29 professional; or (8) the actor is a school employee and such other  
30 person is a student enrolled in a school in which the actor works or a  
31 school under the jurisdiction of the local or regional board of education  
32 which employs the actor; or (9) the actor is a coach in an athletic  
33 activity or a person who provides intensive, ongoing instruction and  
34 such other person is a recipient of coaching or instruction from the  
35 actor and (A) is a secondary school student and receives such coaching  
36 or instruction in a secondary school setting, or (B) is under eighteen  
37 years of age; or (10) the actor is twenty years of age or older and stands  
38 in a position of power, authority or supervision over such other person  
39 by virtue of the actor's professional, legal, occupational or volunteer  
40 status and such other person's participation in a program or activity,  
41 and such other person is under eighteen years of age; or (11) such  
42 other person is placed or receiving services under the direction of the  
43 Commissioner of Developmental Services in any public or private  
44 facility or program and the actor has supervisory or disciplinary  
45 authority over such other person.

46 (b) Sexual assault in the second degree is a class C felony or, if the  
47 victim of the offense is under sixteen years of age, a class B felony, and  
48 any person found guilty under this section shall be sentenced to a term  
49 of imprisonment of which nine months of the sentence imposed may  
50 not be suspended or reduced by the court.

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>October 1, 2012</i>	53a-71
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**JUD**      *Joint Favorable Subst.*